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**MAY 17 2006**

**OFFICE OF PETITIONS**

In re Application of :  
Kokush et al. :  
Application No. 09/011,811 :  
Filed: July 6, 1999 : ON PETITION  
Title of Invention: :  
HYDRAULICALLY STABILISED AND :  
REMOTE-CONTROLLED OPERATOR :  
CRANE :

This is a decision on the Petition for Revival of an Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed September 5, 2005, to revive the above-identified application.

The petition is **dismissed**.

Any further petition to revive the above-identified application (under 37 CFR 1.137(a)), must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.137", and be addressed to Petitions Attorney Derek L. Woods. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-compliant Amendment ("Notice"), mailed July 19, 2001. The Notice set a one (1) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on August 20, 2001. A Notice of Abandonment was mailed on March 8, 2002.

The instant petition

Applicant files the instant petition over three (3) years after the mailing of the Notice of Abandonment, and over four (4) years after the mailing of the Notice.

Applicable Law(s), Rule(s) and MPEP

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed); (2) the petition fee required by 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). The Director of the USPTO may require additional information where there is a question whether the delay was unintentional.

Applicant lacks item (3) above.

In order for the petition under 37 CFR 1.137(b) to be considered grantable, what is required is a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. In view of the considerable time that has passed from the mailing of the Notice on July 19, 2001, and the filing of this petition on September 9, 2005, there is a question of whether the entire delay was unintentional.

Conclusion

Applicant must explain why it took more than four (4) years to reply to the Notice.


Further correspondence with respect to this matter should be addressed as follows:

By mail:           Commissioner for Patents  
                    PO Box 1450  
                    Alexandria, VA 22313-1450

By FAX:           (571) 273-8300  
                    Attn: Office of Petitions

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Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to  
the undersigned at (571) 272-3232.

  
Derek L. Woods  
Attorney  
Office of Petitions